

BEFORE THE STATE TAX APPEAL BOARD

OF THE STATE OF MONTANA

Russell E.& Sandra C.)	
Meech,)	DOCKET NO.: PT-1997-4
Appellants,)	
)	
-vs-)	
)	
THE DEPARTMENT OF REVENUE)	FINDINGS OF FACT,
OF THE STATE OF MONTANA,)	CONCLUSIONS OF LAW,
)	ORDER and OPPORTUNITY
Respondent.)	<u>FOR JUDICIAL REVIEW</u>

The above-entitled appeal came on regularly for hearing on the 8th day of December, 1998, in the City of Great Falls, Montana, in accordance with an order of the State Tax Appeal Board of the State of Montana (the Board). The notice of the hearing was duly given as required by law. The taxpayer, represented by Russell E. Meech, presented testimony in support of the appeal. The Department of Revenue (DOR), represented by field supervisor Peter J. Fontana, and appraisers Robert J. Anderson and Elaine Jaraczski, presented testimony in opposition to the appeal. Testimony was presented, exhibits were received and the Board then took the appeal under advisement; and the Board having fully considered the testimony, exhibits and all things and matters presented to it by all parties, finds and concludes as follows:

FINDINGS OF FACT

1. Due, proper and sufficient notice was given of

this matter, the hearing hereon, and of the time and place of said hearing. All parties were afforded opportunity to present evidence, oral and documentary.

2. The taxpayer is the owner of the property which is the subject of this appeal and which is described as follows:

Lot 21 Blk 000, Willington Tract, and the improvements thereon, S11 T16N R2W, Cascade County, Montana.

3. For the 1997 tax year, the DOR appraised the subject property at a value of \$20,016 for the land and \$133,084 for the improvements.

4. The taxpayer appealed to the Cascade County Tax Appeal Board requesting a reduction in value to \$8,716 for the land and \$95,465 for the improvements.

5. The County Board denied a reduction in the land value but adjusted the improvement value to \$122,270.

6. The taxpayer then appealed that decision to this Board.

7. The DOR did not appeal the decision of the local board.

TAXPAYER'S CONTENTIONS

The taxpayer presented photographs of the "Basta" property and surrounding properties (Ex's 1 & 2), and a hand drawn diagram of subject home (Ex 3). Mr. Meech stated that

his appeal to this Board is based on the fact that an addition to the improvements was completed in 1996, that caused a reappraisal of the property. Then in 1997 the property, without further addition, was again reappraised. He stated that in his mind, there is "no way" that the property increased in value by approximately \$50,000 between 1996 and 1997. He asked "which one is wrong?" He stated that this places the credibility of the whole process in question.

Mr. Meech stated that there has been only one sale of a property "in the lane" in the past few years that he is aware of. He referred to a property purchased by Jim Basta for less than \$80,000 that had an assessed value of over \$140,000.

The taxpayer testified that the original structure was partially demolished and a second floor constructed on the back half of the home. Much of the construction is of the original 1960's vintage. The well and septic system are of the original construction. If the well or septic need to be replaced it is likely to present a problem under the current requirements since the lot is only 100 feet wide.

The existing roofing material for example, was reused on the addition, as well as new material that was used to tie in to the existing roof. He made the point to demonstrate that part of the building is new and part of it is old. He believes that the value is definitely the lower value between that

determined from the cost or the market approach.

The property was purchased by the Meeches in late 1990 or early 1991 for \$35,000. The house was considered to be a weekend type facility and definitely needed work to make it a home. He was attracted to the property by the price and the location. The cost incurred for the remodel was about \$80,000.

The remodel included a new kitchen, bathroom remodel, a new furnace, the second floor area, a double car garage, residing the structure and enclosing a deck area which is now a part of the house. Mr. Meech stated that virtually all of the original living area remains following the remodel.

Mr. Meech arrived at his requested land value by adopting the prior appraisal cycle value. He stated that with only the one sale in the area to rely on the market trend is "soft". He has not had a fee appraisal performed on the property since the remodeling has been done essentially out of pocket.

DOR CONTENTIONS

The DOR presented a copy of a map showing the location of the property (Ex A), a copy of the property record card of the subject property (Ex B), and copies of photographs of the subject property (Ex C).

The home is quality graded as a six (6) with a

Condition Desirability and Utility (CDU) ranking of Good. The physical condition is considered as Good.(ex B) An Economic Condition Factor (ECF) of 108% has been applied to the costs used to value the structure. Mr. Anderson explained that the ECF is based on the subject neighborhood 060 which contains 385 parcels, of which 43 sales were included by the DOR in their data base. The comparison of the market values based on sales and the values based on cost indicates to the DOR that the costs approach needed to be adjusted upward by 8% to achieve market value. The total property value includes a shed, and concrete paving.

The land is valued at \$1.65 per square foot based on sales of land in the area. The lot is .278 acres in size. Mr. Anderson stated that the subject is in a land sub-neighborhood identified as 060-A and includes approximately a seven mile stretch. Sales from other areas across the river were not included in determining the land value for the subject.

The property was considered as 100% complete for 1997 in the DOR appraisal. The value before reappraisal (VBR) that is shown on the notice of appraisal and assessment (CTAB exhibit) is a value that is also considered at 100% complete.

It had to be established that way so the 2% phase in provisions of SB-195 could be complied with.

BOARD'S DISCUSSION

The impact of the 1996 valuation being based on cost and sales data developed from the base year of 1992, and then the reappraisal being based on data for the base year of 1996 but applied on 1997 was explained to Mr. Meech at the hearing. The DOR did not reappraise based on one year alone, but actually on sales and cost data that included a four year span.

The local board ordered that the subject property be valued by the cost approach rather than the market approach to value. The characteristics of the property are fairly described by the DOR and except for the heating information there was little discrepancy between the parties on them.

It is the opinion of this Board that the taxpayer failed to present sufficient evidence or testimony that the decision of the local board is in error and this appeal is denied.

CONCLUSIONS OF LAW

1. **15-8-111. Assessment - market value standard - exceptions.** (1) All taxable property must be assessed at 100% of its market value except as otherwise provided.

(2)(a) Market value is the value at which property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or to sell and both having reasonable knowledge of relevant facts.

(b) If the department uses construction cost as one approximation of market value, the department shall fully consider reduction in value caused by depreciation, whether through physical depreciation, functional obsolescence, or economic obsolescence.

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ORDER

IT IS THEREFORE ORDERED by the State Tax Appeal Board of the State of Montana that the subject property shall be entered on the tax rolls of Cascade County by the assessor of that county at the 1997 tax year value of \$20,016 for the land and \$122,270 for the improvements as determined by the Cascade County Tax Appeal Board.

Dated this 28th day of January, 1999.

BY ORDER OF THE
STATE TAX APPEAL BOARD

PATRICK E. McKELVEY, Chairman

(S E A L)

GREGORY A. THORNQUIST, Member

NOTICE: You are entitled to judicial review of this Order in accordance with Section 15-2-303(2), MCA. Judicial review may be obtained by filing a petition in district court within 60 days following the service of this Order.